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OCT 17 2007

OFFICE OF PETITIONS

In re Application of :
Michael Wayne Brown et al :
Application No. 09/534,595 : DECISION ON PETITION
Filed: March 27, 2000 :
Attorney Docket No. :
AUS000060US2 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 11, 2007, to revive the above-identified application. For the reasons stated below, the petition is being treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed March 24, 2006, which set a three month shortened statutory period for reply. No reply having been received, a Notice of Abandonment was mailed on November 15, 2006.

Petitioner states that the Office action of March 24, 2006 was never received and supplies a statement that he personally conducted a search of the file jacket and docket records for this application and determined that the Office communication was not received. Additionally, a copy of the docket record where the Office communication would have been entered had it been received accompanies the petition, as well as a declaration from the docket administrator of the firm of Dillon & Yudell LLP who handles docketing of all incoming correspondence for the firm of Dillon & Yudell and for the attorneys practicing at Bracewell & Patterson, to whom the correspondence in this file was mailed.

A review of the file record discloses that the Office communication of March 24, 2006 was in fact not received at the

above address of record since it was returned to the file. In accordance with *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Commr. Pat. 1924), when an Office communication is returned to the Office, the Office will check the application file record to ensure that the action was mailed to the correct correspondence address. If not, the Office action should be stamped "remailed" with the remailing date and mailed to the correct correspondence address with the period for reply being reset from the remailed date. Note MPEP 707.13. There is no indication in the file record that the Office followed this procedure.

It further appears that the mailing address for the Office action did not appear in the window of the envelope and, thus, was returned to the Office by the U.S. Postal Service. Further, the envelope does not contain any notation thereon by the U.S. Postal Service as to the reason the envelope was undeliverable.

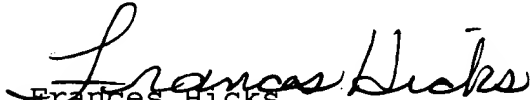
In view of the above, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

A petition under 37 CFR 1.181(a) does not require a fee. Therefore, the \$500 fee submitted for this petition will be refunded to petitioner's deposit account.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being referred to Technology Center AU 3627 for appropriate action in the normal course of business on the reply received April 11, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions

cc:

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